

ITEM NUMBER: 5g

24/00258/ADV	Display of an illuminated fascia sign affixed to the front of the restaurant premises and projecting non illuminated sign.	
Site Address:	5 - 7 Lower Kings Road, Berkhamsted, Hertfordshire, HP4 2AE	
Applicant/Agent:	Mr Chi Yung Tsang	
Case Officer:	Nigel Gibbs	
Parish/Ward:	Berkhamsted Town Council	Berkhamsted Castle
Referral to Committee:	The recommendation to approve is contrary to Berkhamsted Town Council's objection	

1. RECOMMENDATION

1.1 That advertisement consent be **APPROVED** subject to conditions.

2. SUMMARY

2.1 The application is located within Berkhamsted Conservation Area wherein there is a careful consideration regarding the effect of new signage in the interests of amenity and public safety in accordance with the Advertisement Regulations.

2.2 The restaurant's shopfront currently features an internally lit static fascia sign and an unlit projecting sign, installed without advertisement consent and subject to an enforcement investigation.

2.3 In its original form the application effectively sought retain a lit fascia sign and internally lit projecting sign, with the submitted plans showing the shopfront to be lit by changing claret and blue LED shopfront exterior lighting. The individual and collective effects of the original scheme's lit advertising have been reviewed regarding their compatibility with the shopfront and the Conservation Area's evening/night time streetscape. By reason of the excessive lighting the original scheme was regarded as incompatible with and harmful to the existing historic environment.

2.4 Following extensive dialogue and liaison with the Design & Conservation Team, the application has been revised and part amended application form, by limiting the advertisement lighting to the fascia sign only. The revised approach, involving an illuminated fascia sign affixed to the front of the restaurant premises and projecting non illuminated sign, are regarded as compatible with the building and the Conservation Area both at day and night, with a neutral effect to the character and appearance of the area.

3. SITE DESCRIPTION

3.1 Nos 5-7 is a mid-terrace restaurant located on the south eastern side of Lower Kings Road shopping parade. It is north east of the crossroads junction with the High Street and Kings Road, located within Berkhamsted Conservation Area.

3.2 The building features an internally lit fascia sign restaurant name 'SZEN' and logo installed within the shopfront's lit fascia and a now unlit, formerly internally illuminated, projecting sign. The fascia can be partially enclosed/screened by the shopfront's deep awning overhanging the pavement. At the adjoining premises, no.9 – a jewellers shop, there is an externally illuminated fascia sign and an unlit hanging projecting sign.

4. PROPOSAL

4.1. The application in its revised form is for the existing static off set internally lit fascia sign and an unlit projecting sign. The original LED-lit claret and blue shopfront with a changing colour has been removed. The fascia will be lit externally with dimmed white lighting.

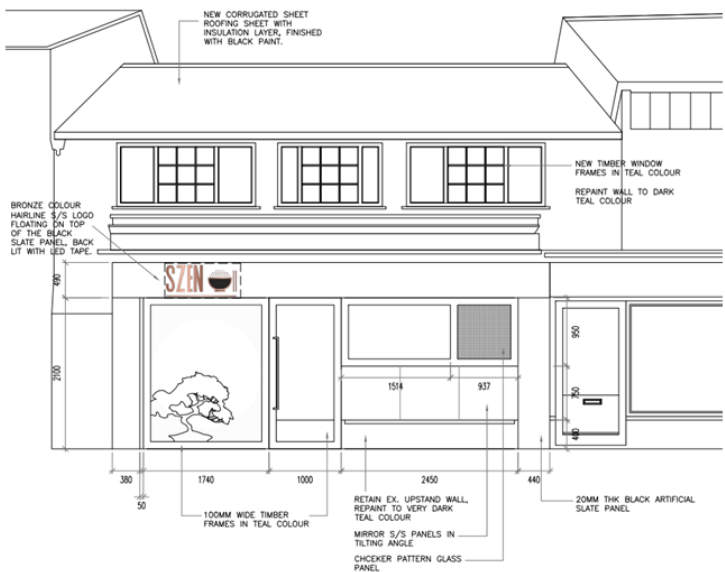
4.2 For clarification, the original application was validated as 'display of an static illuminated fascia sign affixed to the front of the restaurant premises'. However, the submitted documentation illustrated an internally illuminated projecting sign and an LED claret and blue shopfront with changing colour of lighting at the top and bottom of its two pilasters and across the fascia, as shown below:



4.3 The Applicant has provided an updated plan of the shopfront specifically deleting the claret and blue LED lighting. This deletion is also clarified through the revised application form that '... excludes the changing colour LED at top and bottom as referred to by the above plan'. If the application is approved the following condition will be imposed to address the issue.

This consent is only for the static illuminated fascia sign within the statically illuminated fascia and the non-illuminated projecting sign. This advertisement consent is not for the installation of any additional external LED lighting or other exterior lighting of the shopfront.

4.4 The revised drawing can be seen below.



5. PLANNING HISTORY

Planning Applications:

19/03207/FUL - Change of use from A1 (Shops) to A3 (Restaurants and Cafes)
Withdrawn - 22nd October 2020

20/04011/FUL - Change of use from class A1 to class E(b). Single storey infill extension to the rear existing yard together with a stair enclosure above the rear flat roof.
Granted - 12th March 2021

6. CONSTRAINTS

BCA Townscape Group

CIL Zone: 1

Conservation Area: Berkhamsted

Former Land Use (Risk Zone)

Parish: Berkhamsted CP

RAF Halton and Chenies Zone: Yellow (45.7m)

RAF Halton and Chenies Zone: RAF HALTON: DOTTED BLACK ZONE

Parking Standards: Zone 3

EA Source Protection Zones: 1, 2 and 3

Town: Berkhamsted

7. REPRESENTATIONS

Consultation responses

7.1 These are reproduced in full at Appendix A.

Neighbour notification/site notice responses

7.2 These are reproduced in full at Appendix B.

8. PLANNING POLICIES

Main Documents

National Planning Policy Framework (2023)

National Planning Policy Guidance

Dacorum Borough Core Strategy 2006-2031 (adopted September 2013)

Dacorum Borough Local Plan 1999-2011 (adopted April 2004)

Dacorum Borough Core Strategy 2006-2031 (adopted September 2013)

CS16 - Shops and Commerce

CS13 - Quality of the Public Realm

CS27 - Quality of the Historic Environment

CS29 - Sustainable Design and Construction

Dacorum Borough Local Plan 1999-2011 (adopted April 2004)

Policy 13 - Planning Conditions and Planning Obligations

Policy 51 - Development and Transport Impacts

Policy 54 - Highway Design

Policy 112 - Advertisements

Policy 113 - Exterior Lighting
Policy 120 - Development Affecting Conservation Areas
Appendix 8 - Exterior Lighting

Supplementary Planning Guidance

Area Based (2004)
Environmental Guidelines
Berkhamsted Conservation Area Character Area and Management Proposals
Place & Movement Planning and Design Guidance for Hertfordshire

9. CONSIDERATIONS

Main Issues: Policy and Principle

9.1 The application's assessment is through the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended), the National Planning Policy Framework (2023) and the associated Planning Policy Guidance for Advertisements.

9.2 In determining applications for advertisements Local Planning Authorities ("LPAs") are required to exercise their powers under the Regulations (3) to control the display of advertisements in the interests of amenity and public safety, taking into account the provisions of the development plan, in so far as they are material, and any other relevant factors.

9.3 In principle there are no objections to the installation of advertisements to serve the restaurant. It is fully recognised that all retail and other businesses/uses require signage. In serving the evening / night time economy illuminated signage for restaurants is nationally a standard feature of towns.

The National Planning Policy Framework (2023)

9.3 Paragraph 141 specifies:

'The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts'.

Planning Policy Guidance: Advertisements: July 2019

9.4 This provides comprehensive guidance upon how Advertisements are addressed.

Saved Dacorum Borough Local Plan 1991-2011 ("DBLP")

9.5 Relevant saved policies are 112 and 113 and the associated Environmental Guidelines.

9.6 It is recognised that with the exception of DBLP Policy 112 (Advertisements) there is reference to 'development' rather than advertisements. However, such policies do refer to amenity/public safety.

DBLP Policy 112: Advertisements

9.7 This specifies that amongst various factors, express consent to display an advertisement will be given provided the advertisement:

- (a) is sympathetic in size, appearance, design and position to the building or site on which it is displayed;
- (b) is not unduly prominent;
- (c) does not detract from the amenity and character of the surrounding area; and
- (d) does not adversely affect highway and public safety.

Note: Under Policy Advice Note Version 1 May 2017 this policy was regarded partially consistent with the relevant version of the National Planning Policy Framework at that time.

DBLP Appendix 8: Exterior Lighting

9.8 Paragraph A8.21 (1) refers to the imposition of conditions restricting the hours of illumination for advertisements.

Dacorum Borough Local Plan Environmental Guidelines: Part 6: Advertisements

9.9 This specifies amongst a range of issues:

'6.3 In general terms, advertising displays should be designed in a manner which respects the building on which they appear, the building group and the landscape. Facing materials and the mode of application of advertising matter can be critically important, as can the means of illumination.

6.4 Displays should avoid excessive repetition and should be easily identified with the premises to which they relate. Too many advertisements in one area create a cluttered appearance and tend to cancel each other out. Consideration should, therefore, be given to the needs of neighbouring businesses. Generally advance signs and signs which project above the roof line should be avoided'.

Other Policies

9.10 As referred to above, Dacorum Core Strategy Policies CS16 (including the importance of the night time economy) and CS27 (Quality of the Historic Environment), Saved DBLP Policy 120 (Development Affecting Conservation Areas) and the highway safety policies are relevant, in addition to Hertfordshire County Council's Place and Movement Planning Design Guide.

Other National Advice (For Illuminated Advertisements and Light Pollution)

9.11 This includes:

1. The Institution of Lighting Professional's publication *The Brightness of Illuminated Advertisements** PLG 05 (2023) and,
2. The ILP Guidance Note relating to the Reduction of Obtrusive Light Pollution (2021).

The Application's Assessment

9.12 This addresses the following in accordance with Regulation 3 of the Advertisement Regulations:

- a. Amenity.
- b. Public Safety.

9.13 As confirmed, this takes into account the provisions of the development plan, in so far as they are material, and any other relevant factors.

Amenity

9.14 The general background is referred to by the Government PPG:

'Amenity' is not defined exhaustively in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. It includes aural and visual amenity (regulation 2(1)) and factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest (regulation 3(2)(a)).

9.15 It is, however, a matter of interpretation by LPA (and the Secretary of State) as it applies in any particular case. In practice, "amenity" is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement or site for the display of advertisements, where residents or passers-by will be aware of the advertisement.

So, in assessing amenity, the LPA would always consider the local characteristics of the neighbourhood: for example, if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the LPA would consider whether it is in scale and in keeping with these features...'

9.16 In its originally submitted form the application with a range of ambiguities was regarded as incompatible with and harmful to the Conservation Area's character and appearance.

9.17 In its revised form, by day it is considered that the fascia and projecting signs would be compatible with nos. 5/7 and Conservation Area by preserving the Area's character and appearance, with no harm to the residential amenity of the locality.

9.18 Following discussions with the Applicant and liaison with the Design & Conservation and Enforcement Team, it is considered that by night/during the evening the revised scheme is acceptable. The lit subdued static SZEN sign and its associated fascia within the streetscape, would maintain the character and appearance of the Conservation Area's streetscape. This would be even more the case when the shopfront awning is lowered by acting as a shield. The unlit projecting sign would have no adverse effect at night. This overview confirming the acceptability of the revised approach is also in the context of the very strident externally illuminated fascia sign of the adjoining shop at no.9.

9.19 For clarification, recommended Condition 2 clarifies that the approval is limited to the fascia and projecting signage, specifically excluding the LED claret and blue shopfront lighting, based upon the amendments to the application.

Assessment: Public Safety

9.20 Hertfordshire County Council Highways raise no objections subject to some informatives, and there are no apparent crime prevention/security issues. The LPA has not consulted the Air Authorities as due to the limited form exterior lighting

Conclusion

10. In the applications revised form the subtly lit fascia and non-lit projecting signs would be compatible with nos. 5 and 7, with a neutral effect upon the character and appearance of the Conservation Area by both day and night.

10.2 In addition to the standard advertisement conditions and Condition 2, others are also recommended, all of which are in accordance with the standard tests for conditions (see below). These are necessary, relevant to planning, relevant to the scheme to be permitted, enforceable, precise and reasonable in all other respects.

10.3 The range of highway related informatives include the important requirement for the Applicant to apply for a licence issued under the provisions of Section 177 of the Highways Act 1980. The Applicant has been informed of this requirement.

RECOMMENDATION

11.1 That advertisement consent be **APPROVED** subject to the following conditions:

Condition(s) and Reason(s):

1. **(a) Any advertisement displayed, and any site used for the display of advertisement, shall be maintained in a condition that does not impair the visual amenity of the site.**
(b) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
(c) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.
(d) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
(e) No advertisement shall be sited or displayed so as to: (i) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military); (ii) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or (iii) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

Reason: To comply with Regulation 14(7) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007; coupled with the requirements of Policy CS12 of the Dacorum Borough Core Strategy (2013) and Paragraph 141 of the National Planning Policy Framework (December 2023).

2. **This consent is only for the static illuminated fascia sign within the statically illuminated fascia and the non-illuminated projecting sign. This advertisement consent is not for the installation of any additional external LED lighting or other exterior lighting of the shopfront.**

Reason: In the interests of amenity and for the avoidance of doubt; the originally submitted details were regarded as incompatible and detrimental to the character and appearance of Berkhamsted Conservation Area.

3. **The fascia sign hereby approved shall be only of a static illumination at all times with an illuminance of 100 cd/m and there shall be no internal or external illumination of the projecting sign hereby approved.**

Reason: In the interests of amenity and public safety and for the avoidance of doubt.

4. **The fascia sign hereby approved shall only be statically illuminated and shall be permanently switched off at 24.00hours each day and not switched on until 15.30 the following day.**

Reason: In the interests of amenity and for the avoidance of doubt.

5. The consent hereby approved shall be carried out fully in accordance with the following plans:

Location Plan (PP-127603301)

Plan LA-101 Revision D

Non-Illuminated Projecting Sign Plan (no reference) named 'Sign Dimensions' received on 2 February 2024

Reason: For the avoidance of doubt.

Informatives:

1. Advertisement consent has been approved for this proposal. The Council acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the Framework and in accordance with the Town and Country Planning Development Management Procedure) (England) (Amendment No. 2) Order 2015.

2. Projecting sign: Notwithstanding any consent issued under the Town and Country Planning Act, a licence issued under the provisions of Section 177 of the Highways Act 1980 is required prior to the installation of any part of the projection or overhang into or over the public highway. Further information is available via the County Council's website:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/oversail-licence-to-overhang-a-structure-on-a-public-road.aspx> or telephoning 0300 1234047.

3. Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the County Council website at:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

4. Obstruction of highway: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the County Council website at:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

5. Debris and deposits on the highway: It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made up carriageway, or any or other debris on a highway to the interruption of any highway user. Section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all

vehicles leaving the site during construction of the development and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

APPENDIX A: CONSULTEE RESPONSES

Consultee	Comments
Historic Environment (HCC)	No response.
Hertfordshire Highways (HCC)	<p>Application type: Advertisement Consent</p> <p>Proposal: Display of an illuminated fascia sign affixed to the front of the restaurant premises</p> <p>Recommendation Notice is given under article 22 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.</p> <p>Highway Informatives</p> <p>HCC as Highway Authority recommends inclusion of the following Advisory Note (AN) / highway informative to ensure that any works within the highway are carried out in accordance with the provisions of the Highway Act 1980:</p> <p>AN 1) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence.</p> <p>Further information is available via the County Council website at: https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx or by telephoning 0300 1234047.</p> <p>AN 2) Obstruction of highway: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence.</p>

Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN 3) Debris and deposits on the highway: It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made up carriageway, or any or other debris on a highway to the interruption of any highway user. Section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

AN 4) Projecting signs: Notwithstanding any consent issued under the Town and Country Planning Act, a licence issued under the provisions of Section 177 of the Highways Act 1980 is required prior to the installation of any part of the projection or overhang into or over the public highway. Further information is available via the County Council's website: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/oversail-licence-to-overhang-a-structure-on-a-public-road.aspx> or telephoning 0300 1234047.

Comments

The application is for the consent to display an illuminated fascia sign affixed to the front of the restaurant premises at 5 - 7 Lower Kings Road, Berkhamsted. Lower Kings Road is a 20 mph classified C local distributor route that is highway maintainable at public expense. . HCC would note that our guidance states in section 4, 1.9; 3.1 Structures Over the Highway

"The headroom to structures over the highway, such as bridges, lamp columns or archways, should be at least 5.3m. Structures over access roads to car parks or shared areas may be lower.

Assessment should be made on a case-by-case basis. The headroom to any obstacle within 450mm of a right of way shall be at least:

- 2.3m over a footway or footpath
- 2.4m over a cycle track
- 3.7m over a bridleway"

HCC observes that the signs projecting would be above the 2.3 metre

	<p>stipulation although the drawing appears to show it inaccuracy measured below this, however, it is considered acceptable as it is above the 2.3 metres in real life. The applicant must contact the council separately as per informative 4 above to finalise the erection of the projecting sign over highway land.</p> <p>HCC Highways would not wish to restrict a granting of permission for the proposal.</p>
Parish/Town Council	<p>Objection</p> <p>The committee agreed with the comments by the BCA Townscape Group and Conservation & Design and requested removal of the internal illumination fascia sign in the Conservation Area and replacement with external illumination.</p>
Conservation & Design (DBC)	<p>INITIAL RESPONSE</p> <p>5-7 Lower Kings Road is located within the Berkhamsted Conservation Area, the closest listed buildings are on the High Street. The building is on the east side of the road directly on the pavement. It is two storeys under a corrugated iron roof with a traditional timber shop front.</p> <p>This application is for retrospective advertising consent.</p> <p>There is no objection to the signage, only the type of illumination. Within the conservation area internal illumination is not considered acceptable. It is therefore requested that it be removed, including the LED lighting behind the artificial slate. External illumination should be proposed instead.</p> <p>FINAL /ADDITIONAL RESPONSE TO THE APPLICANT'S E MAIL OF 13 SEPTEMBER 2024</p> <p>What Chiyung Tsang proposes sounds acceptable.</p> <p>Although internal, the lighting of the Szen lettering appears to be closer to halo lighting than internal.</p> <p>The external lighting has a warm hue which is supported and preferred to the cool external lighting of the neighbouring shop.</p> <p>Removing of internal lighting of the box signage is supported.</p> <p>(The Applicant's E Mail : 13 September 2024</p> <p>We would like to confirm with you what we have discussed about our change in the lighting arrangements as below.</p>

	<p>1. The restaurant name (SZEN) sign of shopfront signage in the middle will use dim internal lighting (just like photos attached).</p> <p>2. The whole shopfront background will use external lighting (just like photos attached).</p> <p>3. The box signage at the left hand side near the roof will turn off lighting until further notice.</p> <p>And per your advice, please find the below photos taken at night yesterday in different angles of the shopfront. They are definitely showing our signage lighting is dimmer than the street lights.</p> <p>Photo 1: from opposite road, near Waitrose Photo 2: from opposite road, at junction with High Street Photo 3: in front of shop, from opposite road</p> <p>Hope council and committee members agree of what we have changed and grant us the approval, to settle this application</p>
BCA Townscape Group	The Group objects to this internally-illuminated fascia sign in the conservation area. Internal illumination should always be resisted in the CA. It is unacceptable on a general and specific basis.
Town Centres (DBC)	Response awaited.

APPENDIX B: NEIGHBOUR RESPONSES

Number of Neighbour Comments

Neighbour Consultations	Contributors	Neutral	Objections	Support
0	0	0	0	0

Neighbour Responses

Address	Comments